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SIPDIS

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TAGS: [EFIN](#) [KCRM](#) [KTFN](#) [SNAR](#) [CU](#)

SUBJECT: CUBA - MONEY LAUNDERING AND FINANCIAL CRIMES  
(INCSR PART II)

REF: STATE 114958 ("2009-2010 INCSR INSTRUCTION CABLE")

**¶11. GENERAL ASSESSMENT:** The Government of Cuba (GOC) made no significant changes to its anti-money laundering and counter-terrorist financing (AML/CTF) policy in 2009, nor did it publicly report any significant arrests, seizures or prosecutions. One minor regulatory change gave the GOC even more control over foreign currency transactions in a move that could, as a side effect, deter potential money-laundering activity. In addition, the GOC cooperated with the World Customs Organization in an anti-illicit bulk cash smuggling operation and is reportedly working with countries in the region to share counternarcotics information. In July of this year, the GOC stated it would present a draft counternarcotics agreement to the United States, but as of December 2009 the GOC had yet to provide that proposal.

**¶12.** In general, the GOC claims to be in full compliance with international counter-terrorism conventions and to have taken into account the recommendations of the Basel Committee and the Financial Action Task Force when preparing banking regulations. While Cuba has developed a number of regulations since 1997 relating to the detection and prevention of movements of illicit capital and the GOC tightly controls foreign currency movements both within and to/from the island, Cuba continues to have one of the most secretive and non-transparent national banking systems in the world.

**¶13.** This report follows the format provided in the 2009-2010 INCSR Instruction Cable (Reftel).

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GENERAL QUESTIONS  
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**¶14.** Cuba is not considered an important regional financial center. Cuban practices and U.S. sanctions prevent Cuba's banking system from fully operating in the international financial system. The GOC released no information about any money laundering or terrorist financing activities within Cuba in 2009. Cuba is not a member of the International Monetary Fund or the Financial Action Task Force (FATF), two of the top organizations active in fighting money laundering worldwide.

¶ 15. The Cuban economy operates in two currencies: the Cuban peso (CUP) and the Cuban convertible peso (CUC). The currencies are traded at 24:1 in government foreign exchange houses, but the official exchange rate of 1:1 is used in government statistics, making it nearly impossible to reconcile Cuban official monetary statistics.

¶ 16. There is a significant black market in Cuba that operates as a supply and demand market parallel to the heavily subsidized and rationed formal market controlled by the state. The black market, including mostly goods obtained locally but also some smuggled goods, is primarily funded by the nearly \$1 billion in remittances sent to Cuba every year. These funds, mostly in U.S. dollars or euros, are traded for Cuban pesos at government foreign exchange houses. The official CUC to U.S. dollar exchange rate is 1:1.08.

¶ 17. The U.S. Government does not have any direct evidence of money laundering or terrorist financing activities in Cuba in ¶ 2009. No mention of GOC complicity in money laundering or terrorism financing was made in the national or international media in 2009. It should be noted, however, that the national media in Cuba is completely controlled by the state, which permits only laudatory press coverage of itself. Crime is almost never reported. The GOC does not routinely publish or publicize AML/CTF activities.

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OFFSHORE FINANCIAL CENTERS  
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¶ 18. Cuba is not considered an attractive offshore financial center for financial or corporate services. Relatively few international businesses operate in Cuba. Cuba has not licensed any offshore casinos or internet gaming sites.

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FREE TRADE ZONES  
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¶ 19. Cuba does not operate any free trade zones. Cuba had created three export zones for manufacturing, but shut all of them down due to lack of interest and as part of its recentralization policy between 2004 and 2005.

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LEGAL FOUNDATION OF AML REGIME  
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¶ 10. Cuba has the following laws and regulations in place in relation to AML/CTF:

-Resolution 91 of March 9, 1997: This resolution provides for the application of "Guidelines for members of the national banking system relating to the detection and prevention of movements of illicit capital".

-Resolution 27 of December 7, 1997: This resolution provides for the creation of the Central Risk Information Office (CIR), which compiles and processes information on suspected or actual instances of money laundering. The resolution requires all banks and non-bank financial institutions to report such information on a monthly basis.

-Instruction 1 of February 20, 1998: Established 19 steps to implement the general guidelines in Resolution 91, including "know the client", monitoring large cash deposits and withdrawals, identifying company accounts as the most likely vehicle for money laundering, and designating a prevention compliance official responsible for identifying and taking such steps as may be necessary in connection with suspected money laundering activities.

-Law 87 of February 26, 1999: Added money laundering to the penal code. Article 346 of Chapter II of Law 87 states, "Any person who acquires, converts, or transfers resources,

property or rights thereto, or attempts to carry out such transactions, in full awareness, or having the obligation to know or rationally assume, from the occasion or circumstances of the transaction, that such resources, property or rights are the direct or indirect proceeds of acts connected with illicit trafficking in drugs, arms or persons, or with organized crime, shall be liable to a penalty of imprisonment from five to twelve years. Any person who conceals, or obstructs measures to ascertain, the nature, origin, whereabouts, destination, movement or true ownership of resources, property or rights thereto...shall be liable to the same penalty." Those who commit these acts out of inexcusable ignorance shall be imprisoned for two to five years.

-Instruction 2 of April 26, 2000: Further clarified the guidelines from Resolution 91.

-Law 93 of December 20, 2001: Law against acts of terrorism. In regards to the financing of terrorism, Chapter IX reads, "Any person who by any means, directly or indirectly, collects, transports, provides or has in his power financial or material funds or resources with the intention that they should be used or in the knowledge that they are to be used in order to carry out any of the offences envisaged in the Law, shall be subject to imprisonment of ten to thirty years.

The same penalty shall apply to any person who, directly or indirectly, makes funds, financial or material resources or financial or related services of any other kind available to any person or entity who uses them to carry out any of the offences envisaged in this Law."

-Instruction 19 of May 7, 2002: "Guidelines for the struggle against financing terrorism" for the purpose of enforcing the provisions in Cuban Law 93 of 2001, UN's International Covenant to Suppress Financing of Terrorism of 1999, UN Security Council Resolution 1373, FATF recommendations of 2001, Cuban Resolution 91 of 1997, and Cuban Instruction 1 of ¶1998.

-Resolution 17 of March 19, 2004: Established the Bank Supervision Office in the Central Bank to process information provided by the Central Risk Information Office and others about delicate and illegal activities, corruption, and possible operations for laundering money linked with the Cuban banking system.

-Instruction 26 of July 30, 2004: Provides new guidelines for the preventing, detecting, facing, and deterring operations of illicit capital movements (money laundering), and illicit operations in the collections of payments.

¶11. In addition, the Central Bank of Cuba issued Order 66 of June 1, 1998 on bank secrecy, which requires financial institutions to provide any information or documents requested of them by the empowered authorities (courts, tax authorities, inspectors of the Bank Supervisory Authority) relating to financial transactions or banking operations in cases of presumed or suspected movement of illicit funds. Cuban Instruction 19 of 2002 states that the legal provision concerning Bank Secrecy in Cuban Laws shall not be an impediment to collaborating with the authorities when the empowered authority under statutory right applies for information.

¶112. In 2009, the international press reported that the Cuban Central Bank issued Instruction 1 of March 27, 2009 with new rules governing foreign currency transactions and the use of foreign currency accounts. The instruction restricts who can open and use bank accounts in foreign currency to foreigners and authorized representatives, and it appears to target Cuban free-lance agents operating unofficially on behalf of foreign companies. In addition, cash transactions are now only authorized for salary payments. All other cash transactions require authorization from the bank president or his representative. One press story attributed this restriction to Cuba's liquidity crunch. As a side effect,

the tighter government control could serve as a deterrent for potential money-laundering activities. The GOC has not made any public announcements or statements about these new rules, which as of December 2009 were still not published on the Central Bank's website or in the Official Gazette.

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FINANCIAL SECTOR  
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¶13. Every financial institution has a designated official who reports to the top executive of the institution and is responsible for identifying and taking such steps as may be necessary in connection with suspected money laundering activities. According to Cuban Instruction 19 of 2002, banks are required to report immediately to competent entities of the Ministry of Interior and the Central Bank's Central Risk Information Office about any "complex transaction of an unusual amount" and also about those transactions that do not show any legal economic purpose, that demonstrates unquestionably that a money laundering operation is in progress, or when, on reasonable grounds, a suspicion arises that any fund is related or is going to be used in terrorist actions. According to press reports, the Central Bank through Instruction 1 of 2009 now requires banks also to determine if a given financial transaction corresponds to a (state or foreign) company's approved corporate or social purpose. Furthermore, Resolution 91 of 1997 indicates a statutory threshold of CUP 10,000 (equivalent to \$10,000 at the time) to trigger a report. The National Banking System should keep records for five years from the conclusion of the transactions. We have no information regarding the capacity (staffing or otherwise) of the Central Risk Information Office to supervise or examine financial institutions for

compliance with AML/CTF laws and regulations.

¶14. In Cuba's fifth and most recent report to the UNSC Counter-Terrorism Committee from June 8, 2006, the GOC said that the Cuban banking system does not have the authority to analyze financial transactions conducted outside the Cuban banking system. In response to a question about whether there had been any studies of informal and illegal financial transactions conducted in Cuba, the GOC downplayed the informal sector's significance and even questioned its existence. The GOC stated, "the Committee refers to informal and illegal transactions; if such transactions exist, they must be inconsequential compared to the millions of transactions, worth billions of Cuban pesos conducted by natural and juridical persons and handled by bank offices every year, or the money flows in the thousands of current accounts or millions of savings accounts kept by people in bank branches."

¶15. We are not aware of any reporting of any suspicious activities by any bank or financial institution. We are also not aware of any legal protection for individuals (bankers or otherwise) with respect to their cooperation with law enforcement in regards to AML/CTF investigations.

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FIU INVESTIGATIONS  
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¶16. Cuba does not have a financial intelligence unit.

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ASSET FORFEITURE AND SEIZURE LEGISLATION  
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¶17. The GOC has not made public any information regarding arrests, prosecutions or convictions for money laundering or terrorist financing since January 1, 2009. Banks are authorized by Instruction 19 to take preventive action by blocking or freezing the funds of other financial assets of Cuban or foreign individuals or legal persons under suspicion for money-laundering (including as the result of drug trafficking) transactions. The penal code provides that

anyone convicted of money laundering or terrorism financing will forfeit any proceeds. The penal code further provides that authorities may seize not only financial assets but any property "instrumental to or resulting from the offence, to keep it and have it examined by experts where necessary." The GOC has not made public any information regarding narcotics-related, terrorism-related, or other criminal-related financial assets frozen or seized in 2009.

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TERRORIST FINANCING  
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¶18. Cuba criminalized the financing of terrorism as required by the UN International Convention for the Suppression of the Financing of Terrorism, UNSC Resolution 1373, and FATF Special Recommendation 9 through Instruction 19, "Guidelines for the Struggle against Financing of Terrorism" on May 7, 2002. We are unaware as to whether the GOC has circulated to its financial institutions the list of individuals and entities that have been included on the UN 1267 sanctions committee's consolidated list, or any other UN, U.S., or third party list.

¶19. We are unaware of any steps the GOC has taken to regulate informal remittance carriers. Cuba does not report estimates of funds received through remittances, but estimates from the U.S. General Accounting Office, Congressional Research Service, The Commission for Assistance to a Free Cuba, Cuban economists, and international economists range between \$500 million and \$1 billion. Most of these remittances come from Cuban-Americans and are delivered to family members. Historically, only 10-20 percent are carried by formal remittance carriers (i.e. Western Union) due to previous U.S. restrictions on the

dollar amount and frequency of remittances. However, changes to U.S. regulations announced in April 2009 and implemented in September 2009 removed most of those restrictions and made it easier to send funds through licensed remittance forwarders and financial institutions. It remains unclear how these regulatory changes will affect the use of individual cash couriers or other informal money transfer systems. The circulation of the U.S. dollar has been prohibited since 2004. The Cuban government tightly controls all currency exchange and charges a 10 percent commission on U.S. dollar exchanges.

¶20. There are very few independent charitable or non-profit entities, mostly operating through the Catholic Church. Instruction 19 of 2002 states that special attention should be paid to operations made by the "so-called non-profit organizations", which can: be used by terrorist organizations simulating to be legally established; use legitimate entities as channels to finance terrorism, with the purpose of preventing their assets from being frozen; or hide the undercover deviation of funds designed to illegal purposes towards terrorist organizations. The GOC heavily regulates the small non-profit sector, but we have no insight into how the guidelines in Instruction 19 are enforced.

¶21. Travelers to Cuba must fill out a Customs Declaration if they are carrying cash in excess of \$5,000 or the equivalent in other currencies. Travelers departing Cuba are only permitted to export convertible currency and other valuables exceeding an amount of \$5,000 if: the amount had been previously imported and declared; or the amount was lawfully acquired in Cuba, which shall be proven through presentation of the relevant bank documents.

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BILATERAL AND INTERNATIONAL COOPERATION  
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¶22. The United States has no bilateral counternarcotics, anti-money laundering, or counter-terrorism agreements with Cuba and does not fund any GOC counternarcotics or counter-terrorism law enforcement initiatives. In July of

this year, the GOC stated it would present a draft counternarcotics agreement, but as of December 2009 the GOC had yet to provide that proposal. Cuba's drug czar has publicly raised the idea of greater counternarcotics cooperation with the United States, and President Raul Castro has called for a bilateral agreement on narcotics, migration, and terrorism. However, these calls have not been accompanied by actionable proposals on which to base future Cuban cooperation.

¶23. In the absence of normal bilateral relations, the U.S. Coast Guard Drug Interdiction Specialist (DIS) assigned to the U.S. Interests Section (USINT) acts as the main conduit for anti-narcotics issues with the host country on a case-by-case basis. Cuban authorities provided DIS exposure to Cuban counternarcotics efforts, including providing investigative criminal information, such as names of suspects and vessels; debriefings on drug trafficking cases; and access to meet with the Chiefs of Havana's International Criminal Police Organization (INTERPOL) and Customs offices. No AML/CTF cases were presented through DIS channels in 2009. Similar cooperation on counter-terrorism activities does not/not exist.

¶24. On August 25, 2009, the GOC granted USINT's Regional Security Officer permission to serve subpoenas from the U.S. District Court, Southern District of Florida, on three Cuban-American brothers suspected of defrauding the United States out of more than \$100 million in illegal Medicare claims. The complaints specify that the warrants for arrest are directed against personal property (assets), although none of the property identified is in Cuba. The suspects were being held in a Cuban prison on unspecified charges. There have been no further requests for assistance or exchanges of information between USINT and Cuban authorities concerning this case.

¶25. Cuba has ratified the UN International Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention), the UN Convention against Corruption, and the UN International Convention for the Suppression of the Financing of Terrorism. Cuba signed but has not ratified the UN Convention against Transnational Organized Crime (Palermo Convention). Cuba is not a member of any FATF-style regional body, but it claims to have taken FATF recommendation into consideration when drafting AML/CTF regulations.

¶26. The GOC maintains that it has close ties to regional counternarcotics initiatives. The GOC reported that in 2009 it was a party to two memorandums of understanding and 56 judicial assistance agreements. Further, Cuba participates in international efforts such as the United Nations' Heads of Drug Law Enforcement Agencies (HONLEA) meetings. In May 2009, Havana hosted a working group meeting of the exchange of intelligence information among the European Union, Latin America and the Caribbean that included 44 delegates from 34 nations. In June, a regional seminar was held regarding Mutual Judicial Assistance between Latin American and Caribbean nations, organized by experts from the United Nations Office on Drugs and Crime (UNODC) and the Cuban Ministry of Justice, and attended by 10 regional nations. UNODC Director Antonio Maria Costa visited Cuba in 2009 to review Cuban efforts pertaining to drug addiction and prevention.

¶27. GOC personnel attended two training courses offered by international partners that focused on maritime drug interdiction and money laundering. The GOC also reported it continued to strengthen its relationship with the INTERPOL, primarily regarding persons who move internationally and are believed to be involved in drug-related crimes.

¶28. The Mexican press reported Cuba's participation in an October ministerial including 16 countries from Latin America and the Caribbean concerning the "world problem of drugs, security and cooperation." One of the measures reportedly

agreed to was the sharing of intelligence through each country's gradual participation in the Mexico Platform, including a database to track drug related crimes.

¶129. Also in October, Cuba participated through the World Customs Organization (WCO) in Operation ATLAS (Assess, Target, Link, Analyze and Share), the largest multilateral operation in history targeting cash smugglers. U.S. Immigration and Customs Enforcement (ICE) led Operation ATLAS with more than 80 countries (including Cuba) participating in the seizure of \$3.5 million in cash and the identification of \$24 million in undeclared currency that may have otherwise gone undetected at ports of entry around the world during the five-day period. We understand the Cuban Customs Agency was an active participant in the operation.

FARRAR